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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Aída Esmeralda Campos; Autumn Byars;
Beldaja Jama; Breanna Broker; Emma
Davis; Fatima Jabardi; Guadalupe Chavez
Morales; Harry Smith;
José Maciel; Michaela Koert; Mya Vallejo;
Michael Phillips Clancy; Nolan Quinn;
Noor Odeh; Rebecca Huang; Salam
Jabaieh; and Zahra Alam.,

Plaintiffs,

v.

Arizona Board of Regents d/b/a Arizona
State University, a constitutionally created
body corporate; Joanne Vogel, Lance
Harrop, Brian Reece, Michael Crow,
Michael Thompson, Maricopa County
Sherriff Jerry Sheridan, Maricopa County
Sherrif Russ Skinner, Arizona Department
of Public Safety, Officer Juan Padilla,
Officer Clayton Mason, Officer Jason
Latella, Officer Robert Van Buhler, Officer
Kyle Bathke, Officer Prince Singh, Denise
Whisman, Jason Weber, Cayla Sullivan,
Drew Solomon, Gary Samuels, Norean
Sablan, Dawn Russo, Charles Ross, James

Case No. CV-24-00987-PHX-JJT

SECOND AMENDED COMPLAINT

JURY TRIAL DEMANDED

1 O'Brien, Jeffrey Nix, Anthony Momon,
2 Megan Thompson, John Thompson,
3 Christopher Hopkins, Daniel Herrmann,
4 Nancy Gonzales, Carrie Gambee, Robert
Brems, and Michael Anderson.

5 *Defendants.*

6
7 Plaintiffs Aída Esmeralda Campos, Autumn Byars, Beldaja Jama, Breanna Broker,
8 Emma Davis, Fatima Jabardi, Guadalupe Chavez Morales, Harry Smith, José Maciel,
9 Michaela Koert, Mya Vallejo, Michael Phillips Clancy, Nolan Quinn, Noor Odeh, Rebecca
10 Huang, Salam Jabaieh, and Zahra Alam (together as "Plaintiffs") bring this action against
11 the Arizona Board of Regents ("ABOR") (at times d/b/a Arizona State University or
12 "ASU") (at times d/b/a Arizona State University Campus Police or "ASU PD"), Joanne
13 Vogel, Lance Harrop, Brian Reece, Michael Crow, Sheriff Jerry Sheridan, Arizona
14 Department of Public Safety, Officer Juan Padilla, Officer Clayton Mason, Officer Jason
15 Latella, Officer Robert Van Buhler, Officer Kyle Bathke, Officer Prince Singh, Denise
16 Whisman, Jason Weber, Cayla Sullivan, Drew Solomon, Gary Samuels, Norean Sablan,
17 Dawn Russo, Charles Ross, James O'Brien, Jeffrey Nix, Anthony Momon, Megan
18 Thompson, John Thompson, Christopher Hopkins, Daniel Herrmann, Nancy Gonzales,
19 Carrie Gambee, Robert Brems, and Michael Anderson and allege as follows:

20 **JURISDICTION AND VENUE**

21 1. This Court has Jurisdiction to hear this matter pursuant to 28 U.S.C. § 1331
22 and 42 U.S.C. § 1983 because Plaintiffs allege a violation of the First Amendment to the
23 United States Constitution.

24 2. This Court has Jurisdiction to hear Plaintiffs' state law claims in this matter
25 pursuant to 28 U.S.C. § 1367 because Plaintiffs' state law claims form part of the same
26 case or controversy under Article III of the United States Constitution, arising out of the
27 same nucleus of operative facts as Plaintiffs' federal claims.
28

1 3. Pursuant to Ariz. Rev. Stat. § 12-821.01, notices of all state law claims
2 alleged in this Complaint were submitted to all public entity and public employee/agent
3 Defendants against whom such claims are asserted. No responses were received, and the
4 statutory deadline for Defendants' responses has passed. Plaintiffs are therefore authorized
5 to bring this action against public entity and public employee/agent Defendants by Arizona
6 law.

7 4. Venue is proper in this District under 28 U.S.C. § 1391(b)(1) because
8 Defendant ABOR is a public Arizona entity with the capacity to sue and be sued in its
9 common name under applicable law in this Court and therefore resides in Arizona. The
10 remaining Defendants also reside in Arizona. Venue is also proper here pursuant to 28
11 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the
12 claim occurred in the District.

13 **PARTIES**

14 5. Plaintiffs are students who are currently or were previously enrolled at
15 Arizona State University.

16 6. Defendant ABOR is a constitutionally created body corporate established by
17 the Arizona Constitution as the governing body for Arizona's state university system.

18 7. Defendant Joanne Vogel is the Vice President of Student Services in
19 Educational Outreach and Student Services.

20 8. Defendant Lance Harrop is the Dean of Students at Arizona State
21 University's Tempe campus.

22 9. Defendant Brian Reece is the Associate Dean of Students at Arizona State
23 University's Tempe campus.

24 10. Defendant Michael Crow is the President of Arizona State University.

25 11. Defendant Michael Thompson was the ASU PD Chief of Police during the
26 times relevant to this Complaint, was placed on administrative leave following the events
27 described in this Complaint, and thereafter retired from his position with ASU PD.

28 12. Defendant Jerry Sheridan is the Sheriff of Maricopa County, Arizona.

1 13. Defendant Russ Skinner was the Sheriff of Maricopa County, Arizona during
2 the events described in this Complaint.

3 14. Defendant Arizona Department of Public Safety is a state agency established
4 and authorized by Arizona statute.

5 15. Defendant Juan Padilla is an ASU PD Officer.

6 16. Defendant Clayton Mason is an ASU PD Officer.

7 17. Defendant Jason Latella is an ASU PD Officer.

8 18. Defendant Robert Van Buhler is an ASU PD Officer.

9 19. Defendant Kyle Bathke is an ASU PD Officer.

10 20. Defendant Prince Singh is an ASU PD Officer.

11 21. Defendant Denise Whisman is a Senior Director of Emergency Management
12 at the ASU Department of Enterprise Risk and Resilience.

13 22. Defendant Jason Weber is a Crime Prevention Manager at ASU PD.

14 23. Defendant Cayla Sullivan is an Emergency Management Coordinator at the
15 ASU Department of Enterprise Risk and Resilience.

16 24. Defendant Drew Solomon is a Senior Director of Risk Management at the
17 ASU Department of Enterprise Risk and Resilience.

18 25. Defendant Gary Samuels is an Assistant Director in the ASU Department of
19 Student Rights and Responsibilities.

20 26. Defendant Norean Sablan is an Assistant Director in the ASU Department of
21 Student Rights and Responsibilities.

22 27. Defendant Dawn Russo is the Director of the ASU Department of Student
23 Rights and Responsibilities.

24 28. Defendant Charles Ross is the Director of Physical Security Systems in the
25 ASU Department of Preparedness and Security Initiatives.

26 29. Defendant James O'Brien is the Senior Vice President of the ASU Office of
27 University Affairs.

28 30. Defendant Jefferey Nix is a Crime Intelligence Analyst for ASU PD.

1 31. Defendant Anthony Momon is an ASU PD Commander.

2 32. Defendant Megan Thompson is an Associate Director in the ASU
3 Department of Student Rights and Responsibilities.

4 33. Defendant John Thompson is an ASU PD Assistant Chief of Police.

5 34. Defendant Christopher Hopkins is the Real Time Analysis Center Manager
6 for ASU PD.

7 35. Defendant Daniel Herrmann is an Offer/Detective with ASU PD.

8 36. Defendant Nancy Gonzalez is the ASU Executive Vice President and
9 University Provost.

10 37. Defendant Carrie Gambee is an ASU PD Assistant Chief of Police.

11 38. Defendant Robert Brems is the Direct of Strategy and Innovation at ASU PD.

12 39. Defendant Michael Anderson is an Assistant Vice President at the ASU
13 Department of Enterprise Risk and Resilience Management.

14 40. The individual Defendants named include officers, agents and employees of
15 ABOR involved in the pre-planned, targeted decisions to forcefully remove peaceful
16 protest from public land for non-content-neutral reasons, to immediately and unilaterally
17 suspend Plaintiffs from enrollment at ASU following the events of April 26, 2024, and
18 April 27, 2024, to retaliate against Plaintiffs academically without complying with Arizona
19 law, and to impose draconian punishments designed to restrict the exercise of free speech.

20 41. All acts and omissions of non-individual Defendants as alleged herein are
21 alleged to have been committed through agents of Defendants acting within the course and
22 scope of their agency, including members of the ASU administration and members of the
23 ASU campus police department, as well as any employees, officers, or members of state
24 and local agencies.

25 42. To the extent appropriate and necessary, all individual Defendants are sued
26 both in their individual and official capacities.

27 **FACTS**

28 43. Prior to the events of April 26, 2024, groups of students at public universities

1 throughout the nation were participating in protests, marches, and gatherings in solidarity
2 to express their political views on the United States' involvement in the mass genocide of
3 civilians residing in Gaza, including the investment and use of public funds in and for
4 causes aligned with the same.

5 44. Students throughout the country protested their respective Universities
6 participation in the ongoing genocide of the people of Gaza through investments in the
7 military industrial complex who profited from the selling of weapons of mass destruction
8 to the State of Israel.

9 45. In light of this movement and in the weeks leading up to April 26, 2024, from
10 the top of the ABOR chain of command to the bottom of ASU and ASU PD management,
11 plans were made on how to swiftly stifle any such student demonstration should it make it
12 to Arizona's public universities.

13 46. Prior to the events of April 26, 2024, Defendants engaged in extensive
14 communication and preparation – internally with each other and members of ASU and
15 ASU PD staff, as well as externally with public law enforcement and affiliates of political
16 organizations such as the Anti-Defamation League (which has ties with the State of Israel)
17 – all with the goal of preventing or squashing any public demonstrations against the use of
18 public assets to fund the genocide in Gaza or affiliation with pro-Zionist entities that might
19 take place at ASU or any other public Arizona university.

20 47. For example, Defendants Michael Crow and Joanne Vogel were in contact
21 with non-party Jonathan Greenblatt – the controversial CEO of the Anti-Defamation
22 League perhaps most famous for equating opposition to Zionism with white supremacy in
23 2022 – as early as April 22, 2024, four days prior to the events of this Complaint, wherein
24 Greenblatt explicitly called for ASU to prepare and coordinate with law enforcement in
25 order to impose clear and immediate consequences on students protesting Zionism and its
26 murderous effects in Gaza.

27 48. All of the individual Defendants employed in various ASU departments were
28 directly involved in a flurry of email, telephone, and personal communication taking place

1 during the days prior to the events of April 26, 2024, and April 27, 2024.

2 49. These communications varied in content from general “awareness” of
3 protests occurring at other universities to explicit preparation for cracking down on any
4 such protest to occur at ASU – referred to by top brass as “nip[ping] it immediately” – and
5 consideration of what policies would be available to use as authority to remove protesters.

6 50. These communications further included plans on how to handle the media
7 narrative after any anticipated “incident”.

8 51. All individual Defendants employed by ASU and involved in these
9 communications assented to – either explicitly or implicitly – to the plans and goals being
10 discussed and established, including the swift and decisive retaliation against any pro-
11 Palestine or anti-Zionist protest by way of arrest.

12 52. All individual Defendants employed by ASU and involved in these
13 communications participated in the planning and execution of that retaliation.

14 53. Defendant Michael Thompson was in contact with the ASU Executive Vice
15 President, Treasurer and CFO, non-party Morgan Olsen, regarding student protests over
16 the genocide in Gaza as early as 6:41 AM on April 26, 2024, seventeen hours before the
17 events of this Complaint.

18 54. ASU PD officials also contacted Maricopa County Sheriff’s Office
19 (“MCSO”) before 10:10am on April 26, 2024, to inform MSCO that it planned to arrest
20 “between 75-100 individuals from a protest” and asking for assistance in transporting
21 arrestees. This communication was made over twelve hours before the events of this
22 Complaint.

23 55. ASU and ASU PD employees were in also preemptive communication with
24 media outlets prior to events of this Complaint, upon information and belief to begin
25 spinning their actions as more palatable for public consumption and to plant seeds of
26 misrepresentation regarding the actions and identities of the protesters.

27 56. Defendants’ planned crackdown on free speech began on or about April 26,
28 2024, and continued throughout the following months, with certain actions, decisions, and

1 effects still being taken, implemented, and felt to this day.

2 57. On or about April 26, 2024, Plaintiffs joined a large group of like-minded
3 individuals in front of the conference center known as “Old Main” on the Tempe campus
4 of ASU in order to peacefully protest the United States’ involvement in the genocide being
5 carried out in Gaza and ASU’s use of public funds to invest in entities with ties to the
6 perpetrators of that genocide.

7 58. The protest format was that of a “sit in”, where participants make their protest
8 known through their presence, gathering in solidarity.

9 59. At no time were Plaintiffs violent, disruptive, or dangerous.

10 60. At no time did Plaintiffs assault, harass, or otherwise intimidate anyone.

11 61. The sit in protest lasted through the evening, until at or around 11:30pm ASU
12 campus police, at the direction of ASU administration, began forcibly removing protesters
13 and arresting any individuals who refused to voluntarily leave.

14 62. Most of the Plaintiffs were among those who refused to voluntarily leave and
15 were consequently arrested on charges of trespassing, with the exceptions of Plaintiff Harry
16 Smith and Plaintiff Michael Phillips Clancy, discussed in more detail below.

17 63. ASU PD was assisted in substantial part by the Maricopa County Sheriff’s
18 Office, at the direction of then Sheriff Russ Skinner, and the Arizona Department of Public
19 Safety, both of which provided officers who were part of the “arrest pipeline” through
20 which peaceful protesters were arrested, searched, loaded on to busses, and transported to
21 jailing facilities.

22 64. ASU PD, Maricopa County, and Arizona Department of Public Safety
23 officers worked together to systematically break up the peaceful protest, arresting anyone
24 who refused to capitulate to the obvious violation of their free speech rights.

25 65. The arrests resulted in multiple injuries to protesters, including bruising,
26 contusions, and loss of consciousness.

27 66. From the outset, ASU police made their intentions clear; they fully intended
28 to break up any protest, peaceful or otherwise, against Israeli violence in Gaza, regardless

1 of the legality of such actions and with no actual ASU policy in mind to justify such actions.

2 67. In fact, at or around 9 AM on the 26th, Plaintiff Harry Smith was arrested by
3 Defendants Singh, Padilla, Latella, and Buhler, without warning or explanation to send a
4 message to other protestors that they too would be arrested if they remained at the protest.
5 Later that same day the court and prosecutor dropped all charges against Plaintiff Smith
6 for lack of any probable cause for the arrest.

7 68. Despite the charges being dropped, Mr. Smith has faced identical boiler plate
8 charges by Defendant resulting in Mr. Smith being kicked out of his student housing,
9 rendering him temporarily homeless during the early months of summer.

10 69. Plaintiff Michael Phillips Clancy was subject to a similar unwarranted arrest
11 on the morning of the 26th by Defendants Padilla, Mason, Latella, Buhler, and Bathke.

12 70. On or about April 27th, Plaintiffs began receiving identical preplanned
13 messages from ASU administration informing them that their enrollment at the school had
14 been suspended, effective immediately.

15 71. In total, approximately 65 suspension notices were completed by ASU
16 Defendants by the afternoon of April 27, 2024, meaning that ASU processed 65
17 suspensions in less than a single work day, indicating either that the ASU Defendants had
18 preplanned the punishments prior to the protest and ASU's crack down on free speech or
19 that multiple ASU employees worked furiously for hours on a Saturday.

20 72. The messages further informed Plaintiffs that they were not permitted back
21 on ASU campus grounds, on threat of arrest for trespassing.

22 73. The messages also informed Plaintiffs that they were prohibited from
23 communicating with any ASU faculty or staff, including professors.

24 74. ASU's decision to suspend Plaintiffs, ban Plaintiffs from the ASU campus,
25 and prohibit communication with Plaintiffs' professors, made just as semester finals were
26 about to be administered, effectively made it inevitable that student Plaintiffs' grades
27 would suffer for the Spring 2024 semester.

28 75. Being suspended and banned from the campus, Plaintiffs were prohibited

1 from attending the semester finals in person.

2 76. Being prohibited from communicating with their professors, Plaintiffs could
3 not make arrangements to take the semester finals remotely.

4 77. ASU's decision to enact harsh, immediate disciplinary action without any
5 recourse was based solely upon the anti-genocide message being communicated by
6 Plaintiffs' protest.

7 78. There were pro-Israel counter-protesters also present on the Old Main lawn
8 at all relevant times; ASU chose to target the anti-genocide demonstration.

9 79. Moreover, there were fraternity members partying, drinking, and recording
10 the events of the protests when Plaintiffs were arrested, in direct violation of the "curfew"
11 being used as a post-hoc explanation for ASU's actions; ASU chose to arrest and discipline
12 the anti-genocide protesters instead of the bystanders, demonstrating the targeted nature of
13 ASU's actions.

14 80. ASU therefore retaliated against Plaintiffs on the basis of Plaintiffs'
15 expression of protected free speech, and – following the denial of Plaintiff's request for a
16 temporary restraining order and preliminary injunction – ASU's retaliation has had and
17 continues to have significant and detrimental effects on the Plaintiffs' academic futures
18 and livelihoods.

19 81. Interestingly, on or about May 6, 2024, Michael Crow told a crowd of
20 graduating students that they should "Fight... for their rights...of free speech..."

21 82. Apparently, this encouragement of ASU students to fight for their right to
22 speak extended only to those ASU students who were not protesting genocide.

23 83. Following the events of April 26, 2024, and April 27, 2024, Defendant
24 Michael Crow embarked upon a media campaign designed to spread misinformation about
25 the actions of Defendants and Plaintiffs on the night of April 26, 2024, including but not
26 limited to false accusations that Plaintiffs had erected fortifications on ASU property, false
27 assertions that no one had been injured during the arrest, and false descriptions of the role
28 of law enforcement at the protests as simply helping ASU take down encampment tents.

1 84. In early summer of 2024, Defendants issued blanket denials to any appeals
2 or requests for accommodations relating to the unilateral suspensions handed out *en masse*
3 on April 27, 2024, and April 28, 2024, despite personal guarantees from ASU
4 representatives to the Court at the hearing on the Plaintiff's request for a temporary
5 restraining order and preliminary injunction that accommodations would be made to permit
6 Plaintiffs to make up the missed final exams.

7 85. Throughout the summer of 2024, Defendants engaged in sham
8 "investigations" which universally resulted in findings that Plaintiffs were responsible for
9 violating various vague ASU policies by applying obviously post-hoc reasoning in an
10 attempt to justify ASU's violations of Plaintiff's First Amendment rights.

11 86. The punishments for such "violations" included Orwellian reeducation
12 assignments where Plaintiffs were tasked with drafting position papers on why their actions
13 were wrong and why ASU was justified in its violent response to free speech.

14 87. ASU further imposed extended suspensions on multiple Plaintiffs. For
15 example, Plaintiffs Clancy and Smith were suspended through the Fall 2024 semester,
16 despite not being present at the evening protest.

17 88. These decisions handed out days before the deadline to register for Fall 2024
18 classes, ensuring that each and every student Plaintiff's summer plans related to education
19 were ruined and that Plaintiffs were faced with a short time window to decide whether to
20 complete the reeducation assignments and get back to their educations or to engage in the
21 appeals process.

22 89. Those Plaintiffs who did engage in the appeals process were met with
23 predictably hostile arbiters of their claims and universal confirmation of ASU's illegal free-
24 speech crackdown.

25 90. Defendants' actions have resulted in substantial and ongoing harm to
26 Plaintiffs' educational and vocational futures, and have caused severe emotional and
27 mental distress, frustration, anxiety, and fear.
28

COUNT I – FIRST AMENDMENT RETALIATION
42 U.S.C. § 1983 – U.S. CONST. AMEND. I
INDIVIDUAL DEFENDANTS

91. Plaintiffs incorporate by reference all other paragraphs in this Complaint as though fully alleged herein.

92. The individual Defendants named in this suit are persons as that term is used under 42 U.S.C. § 1983.

93. Defendants, in their individual capacity and as the final decision-making authority on behalf of ASU and ASU PD, were acting under the color of law when engaging in the actions set forth in the preceding paragraphs.

94. The actions set forth in the preceding paragraphs deprived Plaintiffs of their right to be free from retaliation for exercising their First Amendment rights under the United States Constitution.

95. The peaceful sit-in in which Plaintiffs engaged is a constitutionally protected activity that did not involve substantial disruption of or material interference with school activities.

96. Suspending Plaintiffs indefinitely, banning Plaintiffs from setting foot on campus, prohibiting Plaintiffs from communicating with their professors just prior to the administration of final exams, refusing reasonable accommodations for final exams, and imposing Orwellian and draconian punishments on plaintiffs, all for engaging in a peaceful sit-in, would chill a person of ordinary firmness from continuing to engage in the constitutionally protected activity.

97. The Plaintiffs' act of participating in a peaceful sit-in to bring attention to politically significant actions on the part of the United States government – including sending aid to Israel – was a substantial or motivating factor in Defendants' decision to punish and suspend Plaintiffs from enrollment at ASU.

98. Furthermore, the decision of Defendants Singh, Padilla, Latella, Buhler, Mason, and Bathke to arrest Plaintiffs Smith and Clancy with no probable cause on the morning of the protests was done solely because of Plaintiffs Smith and Clancy's affiliation

1 with the planned protest and the message thereof.

2 99. As a direct and proximate result of Defendants' actions, Plaintiffs have
3 suffered and will continue to suffer harm, including damage to their academic standing,
4 perceived character and standing in the community, and future prospects, as well as
5 emotional and psychological distress, in amounts to be determined by the jury.

6 100. Additionally, due to the wanton and outrageous conduct of Defendants,
7 Plaintiffs ask that punitive damages be imposed in amounts to be determined by the jury.

8 101. Finally, Plaintiffs' claims arise under 42 U.S.C. § 1983. As an action to
9 enforce this provision and seek redress for a violation of civil rights, Plaintiffs are entitled
10 to an award of reasonable costs and attorneys' fees in an amount to be deemed reasonable
11 by this Court pursuant to 42 U.S.C. § 1988 in the event that Plaintiffs prevail at trial.

12 **COUNT II – VIOLATION OF STUDENTS' FREE SPEECH RIGHTS**

13 **A.R.S. § 15-1864**

14 **ABOR; INDIVIDUAL DEFENDANTS EMPLOYED BY OR REPRESENTING ABOR**

15 102. Plaintiffs incorporate by reference all other paragraphs in this Complaint as
16 though fully alleged herein.

17 103. ASU's immediate disciplinary action of suspension was taken as a result of
18 Plaintiffs' exercise of free speech and therefore violated A.R.S. § 15-1864.

19 104. A.R.S. § 15-1864 prohibits a university or community college from
20 restricting a student's right to speak in a public forum unless such restrictions are
21 reasonable, justified without reference to the content of the speech, necessary to achieve a
22 compelling governmental interest, are the least restrictive means to further that interest,
23 leave ample alternative channels for communication of the information, and allow
24 spontaneous assembly. A.R.S. § 15-1864(A)-(B).

25 105. A.R.S. § 15-1864 further provides that any person lawfully present on a
26 university or community college campus has a right to engage in protests and/or
27 demonstration in any area where the person is lawfully present, subject only to restriction
28 from engaging in conduct that infringes upon the free speech rights of others. A.R.S. § 15-

1 1864(C).

2 106. A.R.S. § 15-1864 also provides that the public areas of Arizona university
3 campuses are “public forums” open on the same terms to any speaker. A.R.S. § 15-
4 1864(D).

5 107. Defendants acted to prevent and stop Plaintiffs from exercising their rights
6 to public assembly, protest, demonstration, and speech due solely to the content and
7 viewpoint of Plaintiffs’ speech.

8 108. This restriction was imposed in an unreasonable manner, without any
9 legitimate justification not related to the content of Plaintiffs’ speech.

10 109. The various post-hoc explanations submitted to Plaintiffs and the Court
11 through the past seven months are all implausible under the circumstances.

12 110. It is readily apparent that Defendants did not target Plaintiffs due to their
13 presence on the Old Main lawn because (1) the lawn is a public forum under A.R.S. § 15-
14 1864 and therefore open to public demonstrations, and (2) none of the pro-Isreal counter-
15 protesters or fraternity members also present on the Old Main lawn were arrested or
16 persecuted.

17 111. It is likewise readily apparent that Defendants did not target Plaintiffs due to
18 an 11 PM “curfew” because (1) Defendants made at least two arrests in mid-morning on
19 April 26, 2024, and (2) none of the pro-Isreal counter-protesters or fraternity members also
20 present past the curfew were arrested or persecuted.

21 112. Defendants targeted Plaintiff because of the content and viewpoint of the
22 speech in which Plaintiffs were engaged.

23 113. Furthermore, ASU’s immediate disciplinary action of suspension – taken as
24 a result of Plaintiffs’ exercise of free speech – was imposed without providing advanced
25 written notice and without affording Plaintiffs the opportunity to review the evidence in
26 support of ASU’s allegations, confront any witnesses against them, to present a defense, or
27 to call witnesses before an impartial person or panel, in violation of Arizona law.

28 114. A.R.S. § 15-1866 sets forth a policy of free expression on Arizona campuses

1 of higher learning, explicitly stating that, in Arizona, “[i]t is not the proper role of an
2 institution of higher education to shield individuals from speech protected by the first
3 amendment, including, without limitation, ideas and opinions that may be unwelcome,
4 disagreeable or deeply offensive.” A.R.S. § 15-1866(A)(2).

5 115. A.R.S. § 15-1866 further acknowledges that students have the right to
6 assemble in order to address issues of public concern as long as the assembly does not
7 include unlawful or disruptive activities, subject to reasonable viewpoint and content-
8 neutral restrictions that must be clear, published, and provide for “ample alternative means
9 of expression.” A.R.S. § 15-1866(A)(3).

10 116. In order to protect a student’s fundamental free speech rights, A.R.S. § 15-
11 1866 provides that before punishment can be meted out in “disciplinary proceedings [...]
12 involving expressive conduct” a student must receive advance written notice of the relevant
13 allegations, be provided a chance to review any evidence and confront any witnesses
14 relevant to the allegations, be provided opportunity to present a defense and call witnesses
15 against the allegations in front of an impartial person or panel, be given an avenue to appeal
16 any decision made by that person or panel, and where suspension of more than thirty days
17 (or expulsion) is a potential punishment to be provided the right to active assistance of
18 counsel. A.R.S. § 15-1866(A)(5).

19 117. These requirements explicitly supersede any university policies or
20 procedures which impact the free speech rights of Arizona students. A.R.S. § 15-1866(C).

21 118. Defendants failed to comply with each and every one of the A.R.S. § 15-
22 1866 requirements.

23 119. Plaintiffs were immediately punished by the imposition of indefinite
24 suspensions from ASU without receiving advance written notice, the chance to review
25 evidence, confront witnesses, mount a defense, call witnesses, or engage counsel to assist
26 in making a case in front of an impartial person or panel.

27 120. Indeed, the person and/or persons who made the decision to impose
28 immediate, indefinite suspensions were not impartial, being members of the ASU

1 administrative teams which pre-planned the crackdown.

2 121. The appeals supposedly available to Plaintiffs universally resulted in a
3 rubberstamping of Defendants' actions and no accommodation for making up missed final
4 examinations, despite assurances to the Court by ASU representation that such
5 accommodation would be made.

6 122. As such, these appeals were not effective and did not provide a legitimate or
7 real opportunity to appeal the decisions.

8 123. The subsequent "investigation" and final decision-making process about the
9 ultimate punishments to be imposed were unilaterally completed by ASU employees,
10 including certain Defendants to this case.

11 124. The resultant findings of guilt were predetermined; had ASU concluded that
12 any of the Plaintiffs were not guilty of the allegations it would have been forced to admit
13 in this suit that it had violated Plaintiffs' free speech rights.

14 125. As such, these persons or panels were not impartial.

15 126. Defendants' violation of Arizona law regarding free speech on campus
16 renders them liable to each Plaintiff – all of who were subject to violation of their
17 expressive rights – for injunctive relief, statutory damages, actual damages, and
18 reimbursement of reasonable attorneys' fees and costs. A.R.S. § 15-1864(I)-(J).

19 **JURY DEMAND**

20 Plaintiffs hereby demand trial by jury for all issues and claims raised in this
21 Complaint.
22

23 **PRAYER FOR RELIEF**

24 WHEREFORE, the Plaintiffs demand judgment against the Defendants, and each
25 of them, for the violations of Plaintiffs' constitutional rights as follows:

- 26 1. Injunctive relief requiring that Defendants permanently revoke all disciplinary
27 actions taken against Plaintiffs arising out of the events of April 26, 2024, and
28

1 April 27, 2024;

- 2 2. Money damages to fairly and reasonably compensate plaintiffs for the deprivation
3 of their rights, including compensatory, consequential, and presumed damages;
4 3. Punitive damages against the individual Defendants in an amount to be determined
5 by the trier of fact;
6 4. A declaration that Defendants violated Plaintiffs' constitutional rights;
7 5. Pre-judgment and post-judgment interest;
8 6. Attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and A.R.S. § 15-1864; and
9 7. Any such other and further relief as the Court deems just and proper.

10
11 Respectfully submitted this 12th day of February 2025,

12 /s/David Chami

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